

BOROUGH OF AVALON
CAPE MAY COUNTY
NEW JERSEY

ORDINANCE No. 888-2025

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 20 OF THE AVALON BOROUGH CODE (BUILDING AND CONSTRUCTION) TO REGULATE THE HANDING AND DISCHARGE OF MICROPLASTIC PARTICLES AND DUST AT CONSTRUCTION SITES

[Editing Note: All changes enacted by this Ordinance appear in **bold text**]

WHEREAS, the discharge of microplastic particles and dust into the environment creates a danger and risk to the environment and requires reasonable regulation with the use of technology that is currently available and such regulation will promote the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL, the Governing Body of the Borough of Avalon, in the County of Cape May and State of New Jersey as follows:

SECTION 1. Chapter 20 of the Code of the Borough of Avalon, (Building and Construction) Section 20-2.14 (General Requirements Applicable to All Construction Sites) is amended, supplemented and restated and shall hereafter read as follows:

20-2.14 General Requirements Applicable to All Construction Sites.

FACTUAL FINDINGS AND DETERMINATIONS: [Amended 2-26-2025 by ORD 888-2025]

Borough Council hereby adopts a study conducted by Leigh Shemitz, MFS, PhD, President of Sound Waters,¹ together with a New Jersey Department of Environmental Protection (NJDEP) report of 2023 as factual findings as follows:

(1) “As their name suggests, microplastics (MP’s) are tiny plastic particles less than five millimeters in size . . . These pieces range anywhere from about the diameter of a grain of rice to where they need to be seen under a microscope. There are a wide range of sources of microplastics, including . . . construction projects . . . and more. [S]ince the 1950s . . . humans have produced 8 billion tons of plastic, and the estimate is only about ten percent of that has been recycled,” according to the Shemitz study.

(2) The ocean is considered the largest collector of plastic waste. Despite the lack of precise information on MPs, projections indicate that the ocean will have accumulated more than 250 million tons of plastics by 2025]. Notably, MPs on land and water surfaces can be re-suspended into the air, and weather conditions such as rain, snow, and wind can cause MPs to settle into aquatic and terrestrial environments. (Wei, et al., 2023).

(3) The State of New Jersey has a vested interest in microplastics entering storm water systems, especially in coastal areas. The NJDEP Science Advisory Board has recommended that future legislative action may be considered for prevention of pollution (eliminate the plastics at the source, i.e.: construction sites) and pathway interventions (preventing the plastics from entering the storm water system), NJDEP Report (2023).

(4) Microplastic particles and dust originating at construction sites within the Borough ultimately enter the air and gets deposited into the Borough’s stormwater collection system and deposited into the back bays and ocean thereby posing an immediate threat to the environment with damaging results to wetlands and marine life.

(5) Therefore, it is imperative that steps be taken to lessen or minimize the damaging effects of microplastics on the environment. Construction sites are widely recognized as a source of microplastic debris and dust, and therefore must be reasonably regulated by requiring the use of available technology for construction tools that would serve to lessen the introduction of microplastic debris or dust into the environment. Similar measures have been taken by other communities that border the ocean and bays.

¹ This study is on file in the Office of the Borough Clerk

The following provisions shall apply to each construction site in the Borough of Avalon:

- a. The owner and general contractor and project manager, if there be one, shall jointly and severally be responsible to maintain the construction site under their control in such a manner as to minimize any negative impact, inconvenience or nuisance upon neighboring residents and to comply with all of the provisions of this chapter. **This shall include, but not limited to, the elimination or control, to the greatest extent possible, of all airborne particles originating from the cutting or sanding of construction materials inclusive of fiberglass, plastics, microplastics, and the derivatives therefrom.** This requirement shall extend to and apply to all subcontractors, **craftsman**, and other persons or entities working on the construction site.
- b. Traffic: All construction vehicles must obey all traffic laws as specified in Title 39 of the New Jersey Statutes.
- c. Tools: To the extent that tools and equipment are available commercially that reduce noise, dust, and pollution of any kind, such tools shall be utilized by all persons and entities working on the construction site. **All tools used for cutting or sanding of any materials, including but not limited to, fiberglass, plastics, microplastics, and similar type materials shall be equipped with an attachment that captures, to the greatest extent possible, dust and debris.** If such attachment is available and not used, the construction project may be subject to the stop-work provisions of this chapter.
[Amended 2-26-2025 by ORD 888-2025]
- d. Litter and debris: **All cutting or sanding of materials that are described in subsections (a) and (c) above shall be cut on the streetside, on the first floor of the construction site, whenever possible. When possible, these materials are to be cut in a partially or completely enclosed space on the first floor. Contractors are required to have a tarp under areas where these materials are cut, and at the end of each workday, or more frequently if the particular circumstances should require, contractors are required to properly dispose of all dust, debris, and particles produced at the construction site as herein provided.** All litter, trash, debris, waste, **including dust and particles resulting from the cutting or sanding of construction materials** and other construction materials intended to be discarded shall be deposited into a dumpster at the end of the workday **(and more frequently, if required) and completely and adequately-covered and secured.** Any such materials likely to blow away and go onto adjoining properties, **or otherwise likely to become airborne** must be deposited into the dumpster throughout the day **and completely and securely covered** in order to prevent any such occurrence.
[Amended 2-26-2025 by ORD 888-2025]
- e. Personal conduct: Language that is crude, vulgar, obscene, and otherwise inappropriate should not be used so as to avoid causing annoyance or embarrassment to surrounding neighbors. Radios and similar devices shall never be used prior to or after the designated hours for construction activity. At all other times, such devices shall be modulated so that the same are not audible off the subject property.
- f. Trespassing: To the extent that use of a neighboring property is necessary to gain access to portions of the construction site, such as to use equipment to install a swimming pool or any other accessory use, and the setbacks do not provide sufficient access, a construction permit shall not be issued by the Construction Official unless and until the permit applicant provides the Borough with a construction easement from the neighboring property owner granting permission for the temporary use of their property for construction purposes on the construction site.
- g. Damage to adjoining property: Any construction activity that results in, or is likely to result in, damage or injury to an adjoining property shall require the owner/contractor to take precautions to shield the adjoining property or properties from any such damage or injury. To the extent that such precautions do not appropriately shield or protect the adjoining property, then the owner/contractor shall be responsible to immediately remedy the situation by whatever means necessary to restore the adjoining property to its condition prior to the damage or injury.

- h. Certain information to be permanently displayed: All construction sites with exterior construction only shall be required to display a sign which shall conform to the requirements of Chapter **27** (Zoning) and shall measure not more than four square feet, shall be nonilluminated, and shall be placed on the construction site or on the structure being erected, and provided that it shall be visible and readable from the street. This sign shall display the block/lot; physical address; contractor's name, emergency phone number and email address; and construction manager's name, emergency phone number and email address. [Amended 1-8-2020 by Ord. No. 796-2020]
- i. Stop-work orders: In the event of continuing, repetitive or recurring violations of the Uniform Construction Code or any other applicable code or the Code of the Borough of Avalon or any of the rules and regulations promulgated pursuant thereto, the Borough shall have the power to stop all construction on the site through the issuance of a stop-work order as hereafter specified.

ADD NEW SECTION AS FOLLOWS:

- j. **Power to Adopt Rules and Regulations.**
[Added 2-26-2025 by Ord. No. 888-2025]

The Code Enforcement Official in consultation with the Borough Engineer and Borough Administration, is hereby authorized to adopt reasonable rules and regulations for the efficient enforcement of section. 20-2.14. Any such rules and regulations shall be written and shall be filed with the Borough Clerk who shall inform Borough Council thereof. Such rules and regulations shall have the force of law unless the same are modified or rescinded by resolution of Borough Council in accordance with N.J. Stat. § 40:69A-183.²

SECTION 2. REPEALER.

All Ordinances or parts of Ordinances, including those specified in Section 3 hereof, which are in conflict or inconsistent herewith are hereby repealed to the extent of such inconsistency or conflict only.

SECTION 3. SEVERABILITY.

If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subsection, subsection, clause, or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

SECTION 4. EFFECTIVE DATE.

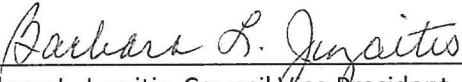
This Ordinance shall take effect **April 1, 2025**, upon final adoption and publication as required by law.

² 40 :69A-183 . Rules and regulations; filing; publication

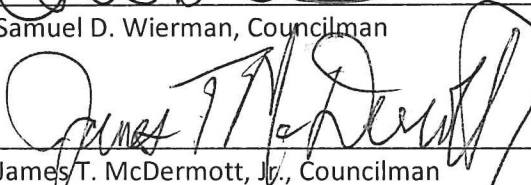
No rule or regulation made by any department, officer, agency or authority of the municipality, except such as relates to the organization or internal management of the municipal government or a part thereof, shall take effect until it is filed either with the municipal clerk or in such other manner as may be provided by ordinance. The council shall provide for the prompt publication of such rules and regulations.


 Maura H. Coskey, Council President


 Gregory J. Johnson, Councilman


 Barbara L. Juzaitis, Council Vice President


 Samuel D. Wierman, Councilman


 James T. McDermott, Jr., Councilman

COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Coskey			✓			
Johnson		✓	✓			
Juzaitis			✓			
McDermott	✓		✓			
Wierman			✓			

Ordinance Adoption Date: February 26, 2025

I HEREBY CERTIFY THAT the foregoing Ordinance was duly adopted by the Borough Council of the Borough of Avalon, New Jersey at the Council Meeting held on Wednesday, February 26, 2025 with the voting record as indicated above.


 C. Danielle Nollett, Borough Clerk

NOTICE OF PENDING ORDINANCE

The Ordinance published herewith was introduced and passed on first reading of the Municipal Council of the Borough of Avalon on January 22, 2025. It will be further considered for second reading, public hearing and final adoption at a meeting of said Council to be held on the 26th day of February, 2025 in the Meeting Room of the Municipal Building, Avalon, New Jersey at 4:00 pm and during the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's Office in said Municipal Building to the members of the general public who shall request the same.

C. DANIELLE NOLLETT
Borough Clerk

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ORDINANCE NO. 888-2025

Passed by Council of the Borough of Avalon, New Jersey

February 26, 2025

Attest: C. Danielle Nallett Borough Clerk

Attest: James Caskey Council President

Presented by me to the Mayor of the Borough of Avalon, New Jersey

February 26, 2025

C. Danielle Nallett Borough Clerk

Approved and signed by me

February 26, 2025

[Signature] Mayor

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BOROUGH OF AVALON
CAPE MAY COUNTY
NEW JERSEY

ORDINANCE NO. 888-2025

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 20 OF THE AVALON BOROUGH CODE (BUILDING AND CONSTRUCTION) TO REGULATE THE HANDING AND DISCHARGE OF MICROPLASTIC PARTICLES AND DUST AT CONSTRUCTION SITES

NOTICE OF ADOPTION

The aforementioned ordinance was duly passed by the Borough Council of the Borough of Avalon, New Jersey, on first reading at a meeting of said Council held on the 22nd day of January, 2025 and was taken up for second reading, final passage and adopted at a meeting of said Council held on the 26th day of February, 2025 in the Meeting Room of the Municipal Building, Avalon, New Jersey at 4:00 pm. Said Ordinance was approved by the Mayor on February 26, 2025.



C. Danielle Nollett, Borough Clerk