

**WEST NORRITON TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2022-757

**AN ORDINANCE OF WEST NORRITON TOWNSHIP, MONTGOMERY COUNTY,
PENNSYLVANIA, AMENDING THE TOWNSHIP CODE TO ADD A NEW CHAPTER
ENTITLED “PLASTIC REGULATIONS” TO REGULATE THE DISTRIBUTION AND
USE OF SINGLE-USE BAGS WITH RELATED FINDINGS, DEFINITIONS,
REQUIREMENTS, ENFORCEMENT, PENALTIES, AND EXEMPTIONS**

WHEREAS, the Pennsylvania First Class Township Code authorizes the Board of Commissioners of West Norriton Township 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 Township and the maintenance of peace, good government, health and welfare of the West Norriton Township (“Township”) and its citizens;

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;

WHEREAS, the Amendment imposes two basic duties on the Commonwealth and its political subdivisions, such as the Township, to: 1) prohibit the degradation, diminution, and depletion of the public natural resources, and 2) act affirmatively via legislative action to protect the environment. *Pennsylvania Environmental Defense Foundation v. Commonwealth of Pennsylvania*, 161 A.3d 911 (Pa. 2017);

WHEREAS, this ordinance is enacted to achieve the Township’s duties under the Amendment by minimizing the degradation, diminution, and depletion of the public natural resources within the Township and to affirmatively enact legislation designed to protect the environment within and around the Township;

WHEREAS, for the reasons set forth in more detail below, the Board of Commissioners intends to preserve, maintain, and enhance the health of its residents and visitors, as well as the public natural resources and common property within and around the Township, by regulating the distribution of single-use bags within the Township;

WHEREAS, the Board of Commissioners has met the procedural requirements of the First Class Township Code for the adoption of the proposed ordinance, including advertising and holding a public hearing; and

WHEREAS, the Board of Commissioners, 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 West Norriton Township will be served by this amendment of the West Norriton

Township Code to regulate the distribution of single-use bags within West Norriton Township;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Commissioners of the West Norriton Township, Montgomery County, Pennsylvania, it is hereby enacted and ordained by the authority of same, as follows:

I. Code Amendment. A new Chapter entitled “Plastic Regulations” is hereby added to the West Norriton Township Code to provide as follows:

PLASTIC REGULATIONS

§1. Purpose and Findings.

A. Purpose

- (1) The purpose of this Chapter is to reduce the use of single-use bags within the Township.
- (2) To 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 West Norriton Township, and to preserve the natural, scenic, historic, and esthetic values of West Norriton Township.
- (3) To relieve the pressure on recyclers servicing the Township, who cite single-use plastic bags as a major source of contamination and inefficiency within the recycling stream.
- (4) To relieve the pressure for Township utilized landfills to manage the disposition of single-use products.

B. Findings.

- (1) The use of single-use plastic bags 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 commercial establishments within West Norriton Township which provide single-use plastic bags to their customers.
- (3) Single-use plastic bags 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 State, and in West Norriton Township, such bags are not curbside recyclable.
- (5) Numerous studies have documented the prevalence of single-use plastic bags littering the environment, blocking storm drains, entering local waterways, and becoming stuck in or

upon natural resources and public property.

- (6) The taxpayers of West Norriton Township pay the costs related to the cleanup of single-use plastic bags from the roadways, trees, sewers, waters, and parks within the Township.
- (7) Recyclers cite single-use plastic bags as a major source of contamination within the recycling stream, leading to increased costs to the Township and decreased efficiency.
- (8) From an overall environmental and economic perspective, the best alternative to single-use plastic bags is a shift to reusable bags followed by single-use compostable or recyclable paper bags.
- (9) There are several alternatives to single-use bags readily available in and around West Norriton Township.
- (10) It is recognized that single use paper bag manufacturing, transportation and resource consumption also affect the environment, but they are biodegradable, single-stream recyclable, and provide a practical retail establishment alternative consistent with most local and state single use plastic regulations and prohibitions. Although preferable to single use plastic bags, the overall effects of producing, providing, and allowing single use paper bags should also be mitigated to reduce waste, litter, and natural resource depletion by encouraging, facilitating and promoting reusable bag use.
- (11) An important goal of West Norriton Township is to procure and use sustainable products and services.
- (12) An important goal of West Norriton Township is to preserve the natural, scenic, historic, and esthetic values of West Norriton Township.
- (13) It is West Norriton Township'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 Township's residents and visitors.
- (14) Studies and past experiences have shown that prohibiting the distribution of single-use plastic bags at the point of sale and placing a mandatory charge on other single-use bags reduces plastic litter and use of single-use bags and promotes the use of reusable bags.
- (15) As required by the Environmental Rights Amendment to the Pennsylvania Constitution, the Township seeks to preserve the natural, scenic, historic, and esthetic values of the Township.
- (16) It is the desire of the Board of Commissioners 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 Township's residents and visitors.

§2. Definitions.

For purposes of this Chapter, the following terms shall be defined as follows:

- 1) “Customer” means any person purchasing goods or services from a Retail Establishment.
- 2) “Operator” means 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.
- 3) “Plastic” means 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.
- 4) “Recycled Paper Bag” means a paper bag that meets the following requirements:
 - i. contains no old growth fiber;
 - ii. contains a minimum of 40% post-consumer recycled content; and
 - iii. is labeled in a highly visible manner as recyclable with the percentage of post-consumer recycled content of the bag
- 5) “Retail Establishment” means any store, commercial establishment, or any other location 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 West Norriton Township. Retail establishments include, but are not limited to: a business establishment that generates a sales or use tax; a drugstore, pharmacy, supermarket, grocery store, farmers market, convenience food store, food mart, food truck, or other commercial entity engaged in the retail sale of a limited line of goods such as 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 a business establishment that sells clothing, hardware, or any other nonperishable goods.
- 6) “Reusable Bag” means a reusable, carryout polypropylene bag that has stitched handles or a reusable, carryout bag made of cloth, other machine-washable fabric, or other material that is specifically designed and manufactured for multiple reuse.
- 7) “Single-use Plastic Bag” means any bag made predominantly of Plastic that is provided by an Operator of a Retail Establishment to a Customer at the point-of-sale. The term does not include Reusable Bags or Recycled Paper Bags. 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, or candy;
- c. a thin bag without handles used exclusively to carry meats, vegetables, fruits, or other similar raw or uncooked 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.
- d. a bag used solely to contain live animals, such as fish or insects sold at a pet store;
- e. a bag sold in packaging containing multiple bags and packaged at the time of manufacture of the bag;
- f. newspaper delivery bags;
- g. bags sold in packages containing multiple bags intended for use as food storage bags, garbage bags, or pet waste bags; and
- h. laundry or drycleaner bags.

§3. Single-use Plastic Bags.

Effective April 22, 2023, Retail Establishments are prohibited from providing a Single-use Plastic Bag to a Customer. This prohibition applies to Single-use Plastic Bags provided for the purpose of carrying goods away from the point-of-sale of a Retail Establishment and to takeout deliveries from a Retail Establishment located within West Norriton Township. The point-of-sale in such transactions is deemed to be at the Retail Establishment, regardless of where payment for the transaction physically occurs.

§4. Recycled Paper Bags.

- (1) Effective April 22, 2023, 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 Customer a Recycled Paper Bag at the point of sale if the bag is provided to the Customer for a charge of not less than \$0.15 per bag. A Retail Establishment may opt out of such charge for takeout and deliveries.
- (3) All monies collected by a Retail Establishment under this Chapter 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.

§5. Reusable Bags.

- (1) A Retail Establishment may provide a Reusable Bag to a Customer at or before the point of sale if the Reusable Bag is provided to the Customer for a charge of not less than \$0.15 per

bag.

- (2) All monies collected by a Retail Establishment under this Chapter 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 any charges for such bag.

§6. Temporary Signage Requirement.

Beginning thirty (30) days after the effective date set forth in §3, and for six (6) 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 Retail Establishment as of the date the prohibition begins; explaining what types of bags and purchases are impacted; and providing any other information West Norriton Township may require by regulation.

§7. Exemptions.

The Township 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 set forth in §3 upon a finding by the Township 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.

§8. Enforcement.

- (1) The Township Manager or their designee has the responsibility for enforcement of this Chapter and may promulgate reasonable rules and regulations to enforce the provisions thereof, including, but not limited to, investigating violations and issuing fines.
- (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 a violation.
- (3) Any Retail Establishment that receives an initial written warning notice may file a request for an exemption pursuant to the procedure in §7 above if within a year of the effective date of this Chapter.
- (4) After a warning is issued and additional violations occur, an Operator of any Retail Establishment violating the requirements of this Chapter shall:

- (a) be subject to a civil penalty of \$50.00 for a first offense;
- (b) be subject to a civil penalty of \$100.00 for a second offense; and
- (c) be subject to a civil penalty of \$200.00 for a third or any subsequent offense.

(5) For the purposes of enforcement under this Chapter, an offense shall be each day an Operator or Retail Establishment is violating a requirement of this Chapter

(6) In addition to the penalties set forth in this Chapter, West Norriton Township may seek legal, injunctive, or other equitable relief to enforce this Chapter.

SECTION II. Severability. The terms, conditions and provisions of this Ordinance are hereby declared to be severable, and, should any portion, part or provision of this Ordinance be found by a court of competent jurisdiction to be invalid, unenforceable or unconstitutional, the West Norriton Township Board of Commissioners hereby declares its intent that the Ordinance shall have been enacted without regard to the invalid, unenforceable, or unconstitutional portion, part or provision of this Ordinance.

SECTION III. Repealer. Any and all other Ordinances or parts of Ordinances in conflict with the terms, conditions and provisions of this Ordinance are hereby repealed to the extent of such irreconcilable conflict.

SECTION IV. Effective Date. This Ordinance shall become effective upon enactment as provided by law, with enforcement of this Ordinance to occur on the date set forth in Section I, §3 above.

SECTION V. Failure to Enforce Not a Waiver. The failure of West Norriton Township to enforce any provision of this Ordinance shall not constitute a waiver by West Norriton Township of its rights to future enforcement hereunder.

ORDAINED AND ENACTED by the Board of Commissioners of West Norriton Township, Montgomery County, Pennsylvania, this day of November, 2022.

ATTEST:

**WEST NORRITON TOWNSHIP
BOARD OF COMMISSIONERS**

By: _____
Jason Bobst, Township Secretary

By: _____
Peter Smock, President