

ORDINANCE NO. 975

“Single-Use Plastic Carry-Out Bags Ordinance”

AN ORDINANCE AMENDING THE CODE OF SPRINGFIELD TOWNSHIP TO ADD A NEW CHAPTER 85 ENTITLED “SINGLE-USE PLASTIC CARRY-OUT BAGS” TO REGULATE THE USE OF SINGLE-USE PLASTIC CARRY-OUT BAGS; TO ADD FINDINGS, DEFINITIONS, REQUIREMENTS, ENFORCEMENT, PENALTIES AND EXEMPTIONS RELATING TO THE DISTRIBUTION AND USE OF SINGLE-USE PLASTIC CARRY-OUT BAGS.

WHEREAS, the First Class Township Code authorizes the Board of Commissioners of Springfield 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 Springfield Township (the “Township”) and to maintain peace, comfort, cleanliness, health, safety and the general welfare of the Township 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 and its political subdivisions 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 Township: first, to prohibit the degradation, diminution, and depletion of the public natural resources and second, to act affirmatively via legislative action to protect the environment; and

WHEREAS, single-use plastic carry-out bags create significant litter in the Township’s rights-of-way, waterways, open spaces and private properties; and

WHEREAS, single-use plastic carry-out bags degrade at a slower rate than recyclable paper carry-out bags, while releasing toxic materials during degradation that pollute waterways; and

WHEREAS, the Springfield Township Board of Commissioners, 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 Township will be served by this Ordinance, which regulates the distribution of single-use plastic carry-out bags within the Township.

NOW, THEREFORE, the Board of Commissioners of Springfield Township (Board”) does hereby **ENACT** and **ORDAIN** as follows:

SECTION I.- Amendment to the Code.

The Code of Springfield Township is hereby amended by adding a new Chapter 85 entitled “Single-Use Plastic Carry-Out Bags” to provide as follows:

CHAPTER 85.

SINGLE-USE PLASTIC CARRY-OUT BAGS.

§ 85-1. Purpose and Findings.

A. Purpose

- (1) The purpose of this Chapter is to reduce the use of single-use plastic carry-out bags by retail establishments within the Township, 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 Township; preserve the natural, scenic, historic, and aesthetic values of the Township, relieve the pressure on recyclers, who cite single-use plastic carry-out bags as a major source of contamination and inefficiency within the recycling stream and relieve the pressure for landfills to manage the disposition of single-use products.

B. Findings.

- (1) The use of single-use plastic carry-out bags have severe environmental impacts, including, but not limited to, greenhouse gas emissions, solid waste, litter, harm to wildlife, ground level ozone formation, atmospheric acidification, and water consumption.
- (2) There are numerous retail establishments within the Township that provide single-use plastic carry-out bags to their customers.
- (3) Most single-use plastic carry-out bags are made from plastic or other materials that do not readily decompose.
- (4) Approximately one hundred billion single-use plastic carry-out bags are discarded by United States' consumers each year. Given the difficulty of recycling these materials, less than one percent of single-use plastic carry-out bags are returned for recycling in the United States, and in the Township, such bags are not curbside recyclable, and they are not among materials accepted as part of the Township's residential recycling program.
- (5) Numerous studies have documented the prevalence of single-use plastic carry-out 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 the Township pay the costs related to the cleanup of single-use plastic carry-out bags from the Township's roadways, trees, sewers, waters, and parks.
- (7) Recyclers cite single-use plastic carry-out bags as a major source of contamination within the recycling stream, leading to increased costs and decreased efficiency.
- (8) From an overall environmental and economic perspective, the best alternative to single-use plastic carry-out bags is a shift to reusable bags followed by compostable or recyclable paper bags.
- (9) Alternatives to single-use plastic carry-out bags are readily available in and around the Township.
- (10) Studies have documented that placing a prohibition on the distribution of single-use plastic carry-out bags at the point-of-sale and placing a fee on other bags reduces the negative environmental impacts and use of single-use plastic carry-out bags.

- (11) The Board of Commissioners desires to conserve resources, reduce the amount of greenhouse gas emissions, waste, litter, water pollution, and protect the public health and welfare, including wildlife, as a way to increase the quality of life for Springfield Township's residents and visitors.

§ 85-2. Definitions.

CUSTOMER – Any person purchasing goods or services from a Retail Establishment.

DISTRIBUTION or TO DISTRIBUTE – The vending, selling, giving, providing, or delivering of an item for any purpose, whether or not incident to the sale, vending, production, or other provision of any merchandise, product, food, or beverage.

EXEMPT BAG – Exempt bags are not subject to regulation as single-use plastic carry-out bags per this Chapter. Exempt bags include (1) laundry and dry-cleaning bags; (2) newspaper bags; (3) bags utilized in connection with food delivery and takeout orders; and (4) bags utilized in connection with the delivery of goods by mail or transportation delivery service providers. Additionally, a bag used at a Retail Establishment by a customer to deliver perishable items to the point-of-sale at that establishment shall be exempt from regulation as a single-use plastic carry-out bag per this Chapter, which may include, but are not necessarily limited to:

- A. bags used to package bulk items such as fruit, vegetables, nuts, grains, or candy;
- B. bags used to contain or wrap meats or fish or unwrapped prepared foods or bakery goods;
- C. bags used solely to contain live animals, such as fish or insects sold in a pet store;
- D. bags sold in packaging containing multiple bags and packaged at the time of manufacturing of the bag.

RECYCLABLE PAPER BAG – A paper bag that meets the following, but not including an Exempt Bag:

- A. contains no old growth fiber;
- B. is one hundred percent (100%) recyclable including the handles;
- B. contains a minimum of forty percent 40% post-consumer recycled content; and

C. is labeled in a highly visible manner with the name of the manufacturer, the percentage of post-consumer recycled content of the bag and the words “recyclable” in an easy-to-read font size.

RETAIL ESTABLISHMENT – 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. Commercial establishments include, but are not necessarily 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, 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, bar, 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. For purposes of this Chapter, Retail Establishments shall not include bazaars or festivals operated by nonprofit organizations or religious institutions.

REUSABLE CARRY-OUT BAG – A carry-out bag that is designed and manufactured for multiple uses and is:

A. made of cloth or other machine-washable fabric or material that has stitched handles; or

B. a polypropylene bag that has stitched handles.

SINGLE-USE PLASTIC CARRY-OUT BAG –A bag made of plastic or other similar material that is provided by a Retail Establishment to a customer at or around the point of sale that is not a Reusable Bag or Recyclable Paper Bag. “Plastic” in this case refers to 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. A single use plastic bag is made through a blown film extrusion process.

A “Single-Use Plastic Carry-Out Bag” shall not include the following:

- (1) Exempt Bags;
- (2) A bag less than one gallon without handles used to protect a purchased item from damaging or contaminating other purchased items when placed in a Reusable Bag, or Recyclable Paper Bag;

- (3) Any bags provided for use by a Retail Establishment operated by the federal government, Commonwealth of Pennsylvania, or local government, or department or agency thereof; and
- (4) Any bags distributed by the federal government, Commonwealth of Pennsylvania, or local government, or department or agency thereof.

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§85-3. Single-Use Plastic Carry-Out Bags.

Beginning six (6) months after the Effective Date, Retail Establishments located in Springfield Township are prohibited from providing a Single-Use Plastic Carry-Out 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. Customers may use bags of any type that they bring to the Retail Establishment themselves, or they may be charged a fee by the Retail Establishment which supplies the Recyclable Paper Bag or Reusable Carry-Out Bag.

§85-4. Recyclable Paper Bags and Reusable Carry-Out Bags.

Beginning six (6) months after the Effective Date, Retail Establishments are prohibited from distributing a bag that is not a Recyclable Paper Bag or a Reusable Carry-Out Bag to a customer at the Retail Establishment.

- A. A Retail Establishment may distribute to Customers Recyclable Paper Bags at the point of sale, if such bags are provided to the Customer for a charge of not less than \$0.10 per bag.
 - (1) All monies collected by a Retail Establishment under this subsection for the distribution of a Recyclable Paper Bag shall be retained by the Retail Establishment
 - (2) Any charge for a Recyclable Paper Bag shall be separately stated on any receipt provided to the Customer at the time of sale and shall be identified as a “Carry-Out Bag Charge” thereon.

§85-5. Signage Requirement.

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 Carry-Out Bags and Non-Recycled Paper Bags will no longer be provided by the establishment as of the date the prohibition begins.

§85-6. Enforcement.

A. The Township Manager or designee has the responsibility for enforcement of this Chapter 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 Chapter after an initial written warning notice has been issued for that violation shall be liable for a violation.

C. Any Retail Establishment that receives an initial written warning notice may file a request for an exemption pursuant to the procedure in §85-8 (Exemptions) below.

D. If a Retail Establishment has subsequent violations of this Ordinance, after the issuance of an initial written warning notice of violation, the following penalties shall be imposed and shall be payable by the Retail Establishment:

- (1) A fine not exceeding \$50.00 for the first violation;
- (2) A fine not exceeding \$150.00 for the second violation in the same year dating from the first violation;
- (3) A fine not exceeding \$400.00 for the third and each subsequent violation in the same year dating from the first violation.

E. Under no circumstances shall a violator be liable to a fine or penalty exceeding \$600 for each offense. In addition to the penalties set forth in this Chapter, the Township may seek other appropriate legal, injunctive, or equitable relief to enforce this Chapter.

F. 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.

G. In addition to the penalties set forth in this Chapter, the Township may seek legal, injunctive, or other equitable relief to enforce this Chapter or to restrain, prevent, or abate a violation of this Chapter. Such proceedings may be initiated before any court of competent jurisdiction. The expense of such proceedings shall be recoverable from the violator in any manner as may now or hereafter be provided by law.

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

§85-7. Exemptions.

The Springfield Township Board of Commissioners may, upon written request of a Retail Establishment, exempt a Retail Establishment from the requirements of this Chapter for a period of up to one (1) year from the Effective Date of this Ordinance upon a determination that the requirements of this Chapter would cause undue hardship to the Retail Establishment. An “undue hardship” shall be found in the following circumstances or situations, and the Township may attach conditions to the provision of any exemption:

- A. The Retail Establishment has a unique circumstance or situation such that there are no reasonable alternatives to the distribution of Single-Use Plastic Carry-Out Bags and/or non-Recyclable Paper Bags;
- B. Compliance with the requirements of this Chapter would deprive the Retail Establishment of a legally protected right; or
- C. Additional time is necessary to draw down the Retail Establishment’s existing inventory of Single-Use Plastic Carry-Out Bags and/or non-Recyclable Paper Bags.

SECTION II.- Disclaimer.

Nothing in this Ordinance shall limit, in any manner whatsoever, the Township's right to enforce any ordinance or law of Springfield Township, Montgomery County or the Commonwealth of Pennsylvania. Nothing in this Ordinance shall be a defense of any citation issued by any municipal corporation or the Commonwealth pursuant to any other law or ordinance.

SECTION III.- Severability.

The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held by a court of competent jurisdiction to be illegal, invalid, or unconstitutional, such decision of the court shall not affect or impair the remaining sections,

sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION IV.- Failure to Enforce Not a Waiver.

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

SECTION V.- Effective Date.

This Ordinance shall take effect and be in force from and after its approval.

SECTION VI.- Repealer.

All other ordinances and resolutions or parts thereof insofar as they are inconsistent with this Ordinance are hereby repealed.

ORDAINED AND ENACTED by the Board of Commissioners of Springfield Township, Montgomery County, Pennsylvania, this 9th day of AUGUST, 2023.

SPRINGFIELD TOWNSHIP

By: _____


James M. Lee, President
Board of Commissioners

Attest: _____


A. Michael Taylor, Secretary
Board of Commissioners