

**TOWNSHIP OF ABINGTON
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2226

**AN ORDINANCE FOR “SINGLE-USE PLASTICS
AND EXPANDED POLYSTYRENE FOAM PRODUCTS”**

WHEREAS, the Township of Abington is a Township of the First Class, duly organized and existing pursuant to the applicable laws of the Commonwealth of Pennsylvania; and

WHEREAS, pursuant to section 1502.44 of the First Class Township Code of the Commonwealth of Pennsylvania, 53 P.S. §56544, the Board of Commissioners has the authority to enact and amend provisions of the Abington Township Code (“Code”) at any time it deems necessary for the health, safety, morals, general welfare, cleanliness, beauty, convenience and comfort of the Township and the inhabitants thereof; 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 trustee of these resources, the Commonwealth 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: 1) to prohibit the degradation, diminution and depletion of the public natural resources, and 2) to act affirmatively via legislative action to protect the environment. Pennsylvania Environmental Defense Foundation v. Commonwealth of Pennsylvania, 161 A.3d 911 (Pa. 2017); and

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 and to affirmatively enact legislation designed to protect the environment; and

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

WHEREAS, the Board of Commissioners has met the procedural requirements of 53 P.S. § 10101, et seq., the Pennsylvania Municipalities Planning Code, for the adoption of the proposed ordinance, including 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 Abington Township will be served by this amendment of the Ordinance to regulate the distribution of single-use plastics and EPS foam products within the Township;

NOW, THEREFORE, the Board of Commissioners of the Township of Abington does hereby **ENACT** and **ORDAIN** as follows:

SECTION 1. In the interests of public and environmental safety, and recognizing single-use plastics and EPS foam products as a threat to the environment, the Abington Township Code shall be adding a new Chapter entitled "Single-Use Plastics and Expanded Polystyrene Foam Products".

§1. Definitions.

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

COMMERCIAL ESTABLISHMENT - Any store or retail establishment that sells, rents, or provides 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 Abington Township. Commercial establishments include: 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, but are not limited to, 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.

COMPLIANT BAG - A paper carryout or reusable bag as set forth herein:

- A. A paper bag that meets all the following minimum requirements:
 - (1) contains no old growth fiber;
 - (2) contains a minimum of 40% post-consumer recycled material; and
 - (3) is 100% recyclable.
- B. A reusable bag that is a carryout bag that is designed and manufactured for multiple reuse and is:
 - (1) made of cloth or other machine-washable fabric that has stitched handles; or
 - (2) a polypropylene bag that is woven or non-woven and fused fabric with a minimum 80 gram/square meter density that has stitched, and not heat-fused handles.

COMPLIANT STIRRER – A device primarily intended to be used by a person for the purpose of stirring beverages that is made entirely of wood, grass or certified as compostable by the Biodegradable Products Institute.

COMPLIANT STRAW – A straw that is certified as compostable by the Biodegradable Products Institute.

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

EXEMPTED BAG - The use of an exempted bag is not a violation of this ordinance. An exempted bag is a bag that is used inside a Commercial Establishment by a Customer to deliver perishable items to (or from) the point-of-sale at that establishment (checkout) and includes:

- A. a product bag (see definition below);
- B. a laundry or dry-cleaner bag;
- C. a newspaper bag;
- D. a bag used to contain live animals, such as fish or insects, sold in a pet store;
- E. a prescription drug bag
- F. a bag sold in packages containing multiple bags intended for use as food storage bags, garbage bags, or pet waste bags;

G. any plastic bag distributed by the state or federal government

EXPANDED POLYSTYRENE (EPS) FOAM PRODUCT – A non-recyclable, blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by a number of techniques, including: fusion of polymer spheres, known as expandable bead 20 polystyrene; injection molding; foam molding; and extrusion-blow molding, also known as extruded foam polystyrene. EPS foam products shall include the following:

- A. food containers;
- B. plates;
- C. hot and cold beverage cups;
- D. trays;
- E. clamshell-style packaging

EPS foam products that are not regulated by this ordinance are:

- A. food or beverages that have been packaged in expanded polystyrene foam outside the Township before receipt by a food service establishment or store (e.g. pre-packaged fruits and baked goods);
- B. Products made of expanded polystyrene foam that are used to package raw, uncooked, or butchered meat, fish, poultry, or seafood;
- C. non-foam polystyrene food service products; or
- D. Beverage cup lids.

OPERATOR – The person in control of, or having responsibility for, the operation of a Commercial Establishment, which may include, but is not limited to, the owner of the Commercial Establishment.

PLASTIC – A non-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.

POST-CONSUMER RECYCLED MATERIAL – A material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. “Post-consumer recycled material” does not include materials and by-products generated from and commonly reused within an original manufacturing and fabrication process.

PRODUCT BAG – A very thin bag (generally without handles) used exclusively to carry meats or fish, vegetables, fruit, nuts, grains, or other similar raw or uncooked food items, bakery goods, candy, or other unwrapped prepared foods to the point-of-sale inside a Commercial Establishment or, for reasons of public health and safety, to prevent such food items from coming into direct contact with other purchased items.

RECYCLABLE - Material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of reusing the altered, incinerated, converted, or otherwise thermally-destroyed solid waste generated therefrom.

SINGLE-USE PLASTIC CARRYOUT BAG - Any bag made predominantly of plastic and is made using a blown-film extrusion process that is provided by an Operator of a Commercial Establishment to a Customer at the point-of-sale, with the purpose of transporting food or merchandise out of the establishment, but not including an Exempted Plastic bag.

SINGLE-USE PLASTIC STIRRER - A single-use beverage stirrer or single-use beverage splash stick, or any other device intended to stir liquid or keep heat and liquid from escaping a lidded cup, provided by a Commercial Establishment that is primarily made of plastic.

SINGLE-USE PLASTIC STRAW - A Straw provided by a Commercial Establishment that is primarily made of plastic. A "Single-Use Plastic Straw" shall not include:

- A. Straws packaged with beverages prepared and packaged outside of the Township, provided such beverages are not altered, packaged, or repackaged within the Township.
- B. Straws provided as an assistance device to reasonably accommodate a disability.

SINGLE-USE PLASTICS - Any materials defined under Single-Use Plastic Carryout Bag, Single-Use Plastic Stirrer, or Single-Use Plastic Straw.

STRAW - 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.

TOWNSHIP - Abington Township.

§2. Purpose.

The purpose of this Chapter is to:

- A. Reduce the use of single-use plastics and EPS foam products by commercial establishments within Abington Township.
- B. 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 and facilitate the use of reusable, compostable, and recyclable materials, and to preserve the natural, scenic, historic, and aesthetic values of Abington Township.
- C. Relieve the pressure on recyclers who cite single-use plastic bags as a major source of contamination and inefficiency within the recycling stream.
- D. Relieve the pressure for landfills to manage the disposition of single-use products.

§3. Findings.

- A. The use of single-use plastics and EPS foam products have severe environmental impacts, including greenhouse gas emissions, litter, harm to wildlife, ground-level ozone formation, atmospheric acidification, water consumption, and solid waste generation to Abington Township and the greater environment.
- B. There are numerous commercial establishments within Abington Township which provide single-use plastics and EPS foam products to their customers.
- C. Most single-use plastics and EPS foam products are made from plastic or other material that does not readily decompose.
- D. Over one hundred billion single-use plastics and EPS foam products are discarded by United States consumers each year. In Abington Township, most such materials are not recycled and are often improperly discarded and litter the Township's highways, trees, and drains.
- E. Numerous studies have documented the prevalence of single-use plastics or EPS foam products littering the environment, blocking storm drains, entering local waterways, and becoming stuck in or upon natural resources and public property.

- F. The taxpayers of Abington Township pay the costs related to the cleanup of single-use plastics and EPS foam products from the roadways, trees, bushes, sewers, drains, waters, and parks within the Township.
- G. Recyclers cite single-use plastics and EPS foam products as a major source of contamination within the recycling stream, leading to increased costs and decreased efficiency.
- H. From an overall environmental and economic perspective, the best alternative to single-use, plastic carryout bags is a shift to reusable bags followed by compostable or recyclable paper bags.
- I. There are several reasonable alternatives to single-use plastics and EPS foam products readily available in and around Abington Township.
- J. 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 commercial 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.
- K. As required by the Environmental Rights Amendment to the Pennsylvania Constitution, Abington Township seeks to preserve the natural, scenic, historic, and aesthetic values of the Township.
- L. It is the desire of the Board of Commissioners to conserve resources, reduce the amount of greenhouse gas emissions, waste, litter, and water pollution, and to protect the public health and welfare of people and wildlife in the Township, all of which increases the quality of life for the Township's residents and visitors.
- M. Studies have documented that prohibiting or otherwise regulating the use of single-use plastics and EPS foam products will significantly reduce the use and waste of such items.

§4. Single-Use Plastics and Expanded Polystyrene Foam Products Prohibited.

Effective 180 days after enactment of this ordinance, no commercial establishment shall provide to any customer any single-use plastics or EPS foam product. This prohibition applies to bags or devices provided for the purpose of carrying away or accompanying goods from the point-of-sale out of the commercial establishment. This prohibition applies to single-use plastics or EPS foam products used for takeout deliveries from commercial establishments within Abington Township. The point-of-sale in such transactions is deemed to be at the commercial establishment, regardless of where payment for the transaction physically occurs.

§5. Use of Compliant Straws and Stirrers.

Effective 180 days after enactment of this ordinance, any commercial establishment shall only provide compliant straws or compliant stirrers unless a single-use plastic straw is requested as set forth under §6.

§6. Single-Use Plastic Straws May be Provided Only Upon Request.

Effective 180 days after enactment of this ordinance, no commercial establishment shall provide a single-use plastic straw to any customer unless the customer first requests it. All food service establishments shall maintain a sufficient supply of single-use plastic straws to accommodate any such request. If a person specifically requests a single-use plastic straw, the commercial establishment shall provide a single-use plastic straw free of charge and shall make no inquiry into the reason for such request.

§7. Compliant bags.

- A. Effective 180 days after enactment of this ordinance, commercial establishments shall only provide compliant bags to a customer at the commercial establishment or through a delivery.
- B. A commercial establishment may make available to a customer a compliant bag at the point-of-sale.
- C. Customers may use bags of any type that they bring to the commercial establishment themselves for the purpose of carrying goods or other materials away from the point-of-sale. Customers may also carry away from the commercial establishment by another other means items that are not placed in a bag provided by the commercial establishment.

§8. Signage Requirement.

Effective 30 days after enactment of this ordinance, and for six months thereafter, commercial establishments are required to post at all points-of-sale conspicuous signage. This signage will inform customers that single-use plastics and EPS foam products will no longer be provided by the establishment as of the date the prohibition begins; explain what types of bags and purchases are impacted; and provide any other information the Township may require by regulation.

§9. Exemptions.

The Township Manager or their designee may, upon written request of a commercial establishment, exempt a commercial establishment from the requirements of this Chapter for a period of not more than one (1) year from the effective date of this Ordinance upon a finding by the Township Manager or their designee that the requirements of this Chapter would cause undue hardship to the commercial establishment. An "undue hardship" shall be found only if the commercial establishment demonstrates that it has a unique circumstance or situation such that there are no reasonable alternatives to the use of single-use plastics and/or EPS foam products or compliance with the requirements of this section would deprive a commercial establishment of a legally protected right.

§10. Enforcement.

- A. 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.
- B. Any commercial establishment that violates or fails to comply with any of the requirements of this Chapter shall first be issued an initial written warning notice that a violation has occurred. If any additional or subsequent violation occurs, and the commercial establishment has previously been issued an initial written warning notice, then the commercial establishment shall be liable for a violation.
- C. Any commercial establishment that receives an initial written warning notice may file a request for an exemption pursuant to the procedure in §9 above.
- D. If a commercial establishment has subsequent violations of this Chapter after the issuance of an initial written warning notice of violation, the following penalties shall be imposed and shall be payable by the operator of the commercial establishment:
 - 1) A fine not exceeding \$100.00 for the first violation following the initial written warning notice;
 - 2) A fine not exceeding \$200.00 for the second violation in the same year dating from the first violation;

- 3) A fine not exceeding \$500.00 for the third and each subsequent violation in the same year dating from the first violation.
- E. For the purposes of this section, a new twelve-month period will begin on the anniversary of the initial written warning notice.
- F. In addition to the penalties set forth in this Chapter, the Township may seek legal, injunctive, or other relief in equity or in law to enforce this Chapter 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.
- G. The failure of the Township to enforce any provision of this ordinance shall not constitute a waiver by the Township of its rights to future enforcement hereunder.

SECTION 2. SEVERABILITY. If any sentence, clause, section, or part of this ordinance is, for any reason, found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the Board of Commissioners of Abington Township that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included therein.

SECTION 3. REPEALER. All ordinances or parts of ordinances conflicting with any provision of this ordinance are hereby repealed insofar as the same affects this ordinance.

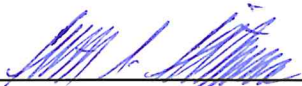
SECTION 4. EFFECTIVE DATE. This Ordinance shall become effective upon enactment as provided by law.

ADOPTED this 13th day of February, A.D., 2025.

ABINGTON TOWNSHIP



BY: Thomas Hecker
President, Board of Commissioners



Attest: Christopher S. Christman
Township Manager and Secretary