



**CHELTENHAM TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2453-23**

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**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA AMENDING THE CODE OF CHELTENHAM TOWNSHIP TO ADD A NEW CHAPTER TITLED "SINGLE-USE PLASTIC BAGS" TO REGULATE THE USE OF SINGLE-USE PLASTIC BAGS; TO ADD FINDINGS, DEFINITIONS, REQUIREMENTS, ENFORCEMENT, PENALTIES AND EXEMPTIONS RELATING TO THE DISTRIBUTION AND USE OF SINGLE-USE PLASTIC BAGS**

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**WHEREAS**, the First Class Township Code authorizes the Board of Commissioners of Cheltenham 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 Cheltenham Township and the maintenance of peace, good government, health and welfare of Cheltenham 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 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, *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 goals 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**, single-use plastic carryout bags create significant litter in Township rights-of-way, waterways, open spaces and private properties; and

**WHEREAS**, single-use plastic carryout bags degrade at a slower rate than recyclable paper carryout bags and release toxic materials during degradation that pollute waterways; and

**WHEREAS**, for the reasons set forth in more detail below, the Cheltenham Township 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 the Township, by regulating the distribution of single-use plastic bags within Cheltenham Township; and

**WHEREAS**, the Cheltenham 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 Cheltenham Township will be served by this Ordinance, which regulates the distribution of single-use plastic bags within Cheltenham Township.

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

**SECTION 1.** The Cheltenham Township Code shall be amended by adding a new Chapter 162 entitled “Single-Use Plastic Bags” to provide as follows:

**CHAPTER 162.  
SINGLE-USE PLASTIC BAGS.**

**§162-1. Purpose and Findings.**

A. Purpose

- 1) The purpose of this Chapter is to reduce the use of single-use bags by retail establishments within Cheltenham Township; curb litter on the streets, in the parks, and in the trees, protect the local streams, rivers, waterways and other aquatic environment; reduce greenhouse gas emissions; reduce solid waste generation; promote the use of reusable, compostable, and recyclable materials within Cheltenham Township; preserve the natural, scenic, historic, and aesthetic values of Cheltenham Township; relieve the pressure on recyclers, who cite single-use plastic 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 bags has severe environmental impacts, including, but not limited to, greenhouse gas emissions, litter, harm to wildlife, ground level ozone formation, atmospheric acidification, water consumption, and solid waste generation.
- 2) There are numerous retail establishments within Cheltenham Township that provide single-use plastic bags to their customers.
- 3) Most single-use plastic bags are made from plastic or other materials that 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 one percent of single-use plastic bags are returned for recycling in the United States, and in Cheltenham 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 Cheltenham Township pay the costs related to the cleanup of single-use plastic bags from Township roadways, trees, sewers, waters, and parks.
- 7) Recyclers cite single-use plastic 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 bags is a shift to reusable bags followed by compostable or recyclable paper bags.

- 9) Studies have documented that placing a prohibition on the distribution of single-use plastic bags at the point of sale and placing a mandatory fee on other bags reduces the negative environmental impacts and use of single-use plastic bags.
- 10) An important goal of Cheltenham Township is to preserve its natural, scenic, historic, and aesthetic values.
- 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 Cheltenham Township's residents and visitors.

## **§162-2. Definitions.**

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

**EXEMPTED BAG** – Exempted bags are not subject to regulation as single-use plastic bags per this Chapter. Exempted bags include (1) laundry and dry-cleaning bags; (2) newspaper bags; and (3) bags utilized in connection with the delivery of goods by mail or other similar transportation carrier. 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 exempted from regulation as a single-use plastic 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 manufacture of the bag.

**PLASTIC** – 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.

**RECYCLED PAPER BAG** – A paper bag that meets the following, but not including an Exempted Bag:

- A. contains no old growth fiber;
- B. contains a minimum of 40% post-consumer recycled content; and
- C. is labeled in a highly visible manner with the name of the manufacturer and the percentage of post-consumer recycled content of the bag in an easy-to-read font size.

**RETAIL ESTABLISHMENT** – Any store or retail 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 Cheltenham Township. Retail 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, 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.

**REUSABLE CARRYOUT BAG** – A carryout 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 BAG** – A bag made through a blown-film extrusion process, but not including an Exempted Bag.

**TOWNSHIP** – Cheltenham Township.

**§162-3. Single-Use Plastic Bags.**

Beginning 90 days after the Effective Date, Retail Establishments located in Cheltenham Township are prohibited from providing a Single-Use Plastic 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.

**§162-4. Single-Use Paper Bags.**

- A. Beginning 90 days after the Effective Date, Retail Establishments are prohibited from providing a non-Recycled Paper Bag to a customer at the Retail Establishment or through a delivery.
- B. A Retail Establishment may provide a consumer a Recycled Paper Bag at the point of sale if the bag is provided to the consumer for a charge of not less than \$0.10 per bag.
- C. All monies collected by a Retail Establishment under this Section for the provision of a Recycled Paper Bag shall be retained by the Retail Establishment.
- D. 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.

**§162-5. Reusable Bags.**

- A. A Retail Establishment may provide a consumer a Reusable Carryout Bag at the point of sale for a charge established by the Retail Establishment.
- B. All monies collected by a Retail Establishment under this Section for the provision of a Reusable Bag shall be retained by the Retail Establishment.
- C. Any charge for a Reusable 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.

**§162-6. 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 Bags and non-Recycled Paper Bags will no longer be provided by the establishment as of the date the prohibition begins.

**§162-7. Enforcement.**

- A. The Board of Commissioners 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 §162-8 (Exemptions) below.
- D. In the event any Retail Establishment has subsequent violations of this Chapter after the issuance of an initial written warning notice of violation, the Township may issue a summary criminal citation and seek a minimum fine of \$500 and a maximum fine of \$1,000 upon conviction thereof in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure. Each section of this Chapter violated shall constitute a separate offense, and each day or portion thereof in which a violation of this Chapter is found to exist shall constitute a separate offense, each of which violations shall be punishable by a separate fine imposed by the Magisterial District Judge. All fines and penalties collected for the violation of this Chapter shall be paid to Cheltenham Township.
- E. 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.

**§162-08. Exemptions.**

The Cheltenham 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 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 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.

**SECTION II. Disclaimer.**

Nothing in this Ordinance shall limit, in any manner whatsoever, the Township's right to enforce any ordinance or law of Cheltenham 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 or phrase shall be held by a court of competent jurisdiction to be illegal, invalid, or unconstitutional, the remaining portions of this Ordinance shall not be affected or impaired thereby.

**SECTION IV. Repealer.**

Any ordinance or part of any Ordinance conflicting with the provisions of this Ordinance shall be deemed and the same are hereby repealed to the extent of such conflict.

**SECTION V. 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 VI. Effective Date**


This Ordinance shall take effect and be in force on January 1, 2024.

**DULY ORDAINED AND ENACTED** this 26<sup>th</sup> day of **April, 2023**, by the Board of Commissioners of Cheltenham Township, Montgomery County, Pennsylvania, in lawful session duly assembled.

**ATTEST:**

  
**Alyson Elliott**  
*Township Manager and Secretary*

**TOWNSHIP OF CHELTENHAM  
BOARD OF COMMISSIONERS**

By:   
**Daniel B. Norris, President**