

ORDINANCE NO. 10 – 2024

WEST GOSHEN TOWNSHIP

CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE OF WEST GOSHEN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE TITLE OF CHAPTER 61 OF THE CODE OF WEST GOSHEN TOWNSHIP, TITLED, “PLASTIC BAG AND PLASTIC STRAW REGULATIONS” TO BE TITLED “SINGLE USE PRODUCT REGULATIONS”; TO AMEND SECTION 61-1, TITLED, “PURPOSE; FINDINGS”; TO AMEND SECTION 61-2 TO ADD DEFINITIONS FOR EXPANDED POLYSTYRENE AND EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT; TO ADD A NEW SECTION 61-4.1 TO PROHIBIT THE USE OF EXPANDED POLYSTYRENE FOOD SERVICE PRODUCTS BY COMMERCIAL ESTABLISHMENTS IN WEST GOSHEN TOWNSHIP EFFECTIVE SIX MONTHS FROM THE EFFECTIVE DATE OF THIS ORDINANCE; AND TO AMEND SECTION 61-5 TITLED, “EXEMPTIONS” TO ALLOW THE BOARD OF SUPERVISORS TO EXEMPT COMMERCIAL ESTABLISHMENTS FROM THE PROHIBITION OF USING SINGLE-USE PLASTIC CARRYOUT BAGS, SINGLE-USE PLASTIC STRAWS AND EXPANDED POLYSTYRENE FOOD SERVICE PRODUCTS FOR A LIMITED PERIOD OF TIME.

WHEREAS, under the Second Class Township Code, 53 P.S. § 65607(1), the Board of Supervisors of West Goshen Township is charged with the responsibility to ensure the health, safety, and welfare of its citizens; and

WHEREAS, pursuant to the Second Class Township Code, 53 P.S. § 66506, the Board of Supervisors may adopt such ordinances and such other codes not inconsistent with the Pennsylvania Constitution and as may be required from time to time to protect the safety and welfare of the 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 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- one is to prohibit the degradation, diminution, and depletion of the public natural resources and the second is 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, the Board of Supervisors, intending 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, previously enacted Ordinance No. 16-2021 on December 21, 2021, which was repealed and replaced with Ordinance No. 3-2022 on September 6, 2022, which is codified in Chapter 61 of the West Goshen Township Code ("Chapter 61") to prohibit the distribution of single-use, carry-out plastic bags and single-use, plastic straws manufactured via a blown-film extrusion process within the Township; and

WHEREAS, the Board of Supervisors desires to amend Chapter 61 to include a prohibition of the distribution of expanded polystyrene food service products from Commercial Establishments, as that term is defined in Section 61-2 of the Code;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of West Goshen Township, Chester County, Pennsylvania, it is hereby enacted and ordained that Chapter 61 of the Code shall be amended as follows:

SECTION 1. Chapter 61 of the West Goshen Code shall be retitled "Single Use Product Regulations."

SECTION 2. Section 61-1 titled "Purpose; findings" shall be amended as follows:

"§61.1. Purpose; findings.

- A. The purpose of this chapter is to reduce the use of single-use, plastic carryout bags, single-use, plastic straws, and expanded polystyrene food service products by commercial establishments within West Goshen 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 West Goshen Township, and to preserve the natural, scenic, historic, and esthetic values of West Goshen Township.
- B. Findings.
 - (1) The use of single-use, plastic carry-out bags, single-use, plastic straws, and expanded polystyrene food service products have severe environmental impacts, including greenhouse gas emissions, litter, harm to wildlife, water consumption and solid waste generation.
 - (2) There are numerous commercial establishments within West Goshen Township which, prior to the enactment of this chapter, provided single-use, plastic carry-out bags, single-use, plastic straws, and expanded polystyrene food service products to their customers.

- (3) Single-use, plastic carry-out bags, single-use, plastic straws, and expanded polystyrene food service products do not readily decompose.
- (4) Approximately 100,000,000,000 single-use, plastic carry-out bags are discarded by United States consumers each year. In West Goshen Township such bags are not readily recyclable.
- (5) Hundreds of millions of single-use, plastic straws are discarded by United States consumers every day. In West Goshen Township, such straws are not readily recyclable.
- (6) Numerous studies have documented the prevalence of single-use, plastic carry-out bags, single-use plastic straws and expanded polystyrene food service products littering the environment, blocking storm drains, entering local waterways, and becoming stuck in or upon natural resources and public property.
- (7) The taxpayers of West Goshen Township pay the costs related to the cleanup of single-use, plastic carry-out bags, single-use plastic straws, and expanded polystyrene food service products from the roadways, trees, sewers, waters, and parks within the Township.
- (8) From an overall environmental and economic perspective, the best alternative to single-use, plastic carry-out bags, single-use plastic straws, and expanded polystyrene food service products is a shift to reusable alternatives followed by single-use compostable or recyclable alternatives.
- (9) There are several alternatives to single-use, plastic carry-out bags, single-use plastic straws, and expanded polystyrene food service products readily available in and around West Goshen Township.
- (10) 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.
- (11) An important goal of the Township is to procure and use sustainable products and services.
- (12) It is the desire of the Board of Supervisors 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."

SECTION 3. The following definitions shall be added to Section 61-2:

EXPANDED POLYSTYRENE– 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 polystyrene; injection molding; foam molding; and extrusion-blow molding, also known as extruded foam polystyrene. Styrofoam shall be included as Expanded Polystyrene. The term shall not include products that contain extruded polystyrene that has not been expanded or foamed.

EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT- A product made of synthetic resin of polystyrene or expanded polystyrene that is used for selling, providing, or transporting food or beverages including, but not limited to, food containers (including "clamshell", hinged, or lidded packaging/food containers), plates, hot and cold beverage cups, and/or trays. However, an Expanded Polystyrene Food Service Product shall not include:

- a. food, beverages, or other items that have been packaged in Expanded Polystyrene outside West Goshen Township for general distribution;
- b. a product made of Expanded Polystyrene that is used to package raw, uncooked, or buttered meat, fish, poultry, or seafood;
- c. a package or container containing multiple Expanded Polystyrene Food Service Products packaged by the manufacturer at the time of manufacturing and sold for home or business use.

SECTION 4. A new Section 61-4.1 titled, "Expanded Polystyrene Food Service Products Prohibited" shall be added and provide as follows:

"§ 61-4.1. Expanded Polystyrene Food Service Products Prohibited.

Effective six months from the effective date of this Ordinance, no Commercial Establishment shall provide to any Customer an Expanded Polystyrene Food Service Product, as defined in Section 61-2. This prohibition applies to Expanded Polystyrene Food Service Products used for takeout deliveries from Commercial Establishments within West Goshen 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."

SECTION 5. Section 61-5 titled "Exemptions" shall be revised to state as follows:

"§ 61-5. Exemptions.

The Board of Supervisors, acting upon the written recommendation of the Township Sustainability Advisory Committee may, upon written request of a Commercial Establishment, exempt a Commercial Establishment from the requirements of this Chapter for a period of one (1) year from the date that the prohibition on the use of Expanded Polystyrene Food Service Products goes into effect, upon a finding 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 unique circumstances or situations such that there are no reasonable alternatives to the use of products prohibited by this chapter."


SECTION 6. 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 Board of Supervisors of West Goshen 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 7. 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 8. EFFECTIVE DATE. This Ordinance shall become effective five days after its enactment.

ENACTED AND ORDAINED THIS 3 DAY OF September, 2024.

ATTEST:

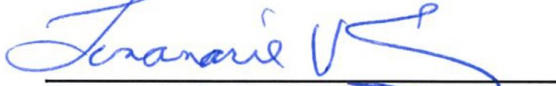


Christopher Bashore, Secretary

WEST GOSHEN TOWNSHIP

BY: 

Ashley Gagné, Chair



Tinamarie Smith, Vice-Chair



Shaun Walsh, Member



John Hellmann, Member



Nate Wolman, Member